

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

Proposed Rule LSA Document #20-XXX

DIGEST

Amends 410 IAC 26-2-8 to state that the commissioner may take action under this section for any violation of state law; amends 410 IAC 26-3-2 to require licensing surveys comply with state law; amends 410 IAC 26-3-4 to require a plan of correction for noncompliance with any state law; amends 410 IAC 26.5-3-8 to state that the commissioner may take action under this section for any violation of state law; amends 410 IAC 26.5-4-2 to require licensing surveys comply with state law; and, amends 410 IAC 26.5-4-4 to require a plan of correction for noncompliance with any state law. Effective 30 days after filing with the Publisher.

ARTICLE 26. ABORTION CLINICS

Rule 2. License Requirements

410 IAC 26-2-8

SECTION 1. 410 IAC 26-2-8 IS AMENDED TO READ AS FOLLOWS:

410 IAC 26-2-8 Enforcement actions

Authority: IC 16-21-1-7; IC 16-21-2-2.5

Affected: IC 16-21-2; IC 16-21-3; IC 27-13-1

Sec. 8. (a) The commissioner may take any of the following actions on any of the grounds listed in subsection (b):

- (1) Issue a letter of correction.
- (2) Issue a probationary license.
- (3) Conduct a resurvey.
- (4) Deny the renewal of a license.
- (5) Revoke a license.
- (6) Impose a civil penalty in an amount not to exceed ten thousand dollars (\$10,000).
- (b) The commissioner may take action under subsection (a) on any of the following grounds:
 - (1) Violation of any provision of ~~this article~~ **state law**.
 - (2) Permitting, aiding, or abetting the commission of any illegal act in an abortion clinic.
 - (3) Knowingly collecting or attempting to collect from:
 - (A) a subscriber (as defined in IC 27-13-1-32); or
 - (B) an enrollee (as defined in IC 27-13-1-12);

of a health maintenance organization (as defined in IC 27-13-1-19) any amounts that are owed by the health maintenance organization.

- (4) Conduct or practice found by the department to be detrimental to the welfare of the patients of an abortion clinic.

(Indiana State Department of Health; 410 IAC 26-2-8; filed May 11, 2006, 9:36 a.m.: 29 IR 3358; readopted filed Jul 12, 2012, 12:08 p.m.: 20120808-IR-410120196RFA; readopted filed Sep 26, 2018, 2:48 p.m.: 20181024-IR-410180328RFA; filed Sep 6, 2019, 3:25 p.m.: 20191002-IR-410190164FRA)

Rule 3. Surveys

410 IAC 26-3-2

SECTION 2. 410 IAC 26-3-2 IS AMENDED TO READ AS FOLLOWS:

410 IAC 26-3-2 Licensing surveys

Authority: IC 16-21-1-7; IC 16-21-2-2.5

Affected: IC 16-21-1; IC 16-21-2

Sec. 2. (a) The department will conduct a licensing survey of each abortion clinic at least one (1) time per calendar year. The licensing survey is conducted to ensure that the abortion clinic is operating in compliance with ~~this article~~ **state law**.

(b) Licensing surveys will be conducted during normal business hours of the abortion clinic unless the abortion clinic requests that the survey be conducted during nonbusiness hours.

(c) The division will notify the clinic of the results of the licensing survey in writing.

(Indiana State Department of Health; 410 IAC 26-3-2; filed May 11, 2006, 9:36 a.m.: 29 IR 3359; readopted filed Jul 12, 2012, 12:08 p.m.: 20120808-IR-410120196RFA; readopted filed Sep 26, 2018, 2:48 p.m.: 20181024-IR-410180328RFA; filed Sep 6, 2019, 3:25 p.m.: 20191002-IR 410190164FRA)

410 IAC 26-3-4

SECTION 3. 410 IAC 26-3-4 IS AMENDED TO READ AS FOLLOWS:

410 IAC 26-3-4 Plan of correction

Authority: IC 16-21-1-7; IC 16-21-2-2.5

Affected: IC 16-21-1; IC 16-21-2

Sec. 4. (a) The abortion clinic must file an acceptable plan of correction with the division within ten (10) days of receipt of a survey report from the division that documents noncompliance with state ~~rules~~ **law**.

(b) Unless the commissioner determines that there is a need for immediate release, the abortion clinic will have ten (10) days after notification of a noncompliance to submit to the division an acceptable plan of correction before the survey report is made available to the public.

(c) The plan of correction shall contain, for each deficient practice cited on the survey report, at least the following:

(1) How the deficient practice will be corrected.

(2) How the deficient practice will be prevented from reoccurrence.

(3) Who will be responsible for correction and prevention.

(4) The month, day, and year that the corrective action will be completed, not to exceed thirty (30) days from receipt of the notice of noncompliance.

(5) If the nature of the corrective action requires more than thirty (30) days from the date of receipt of the notice of noncompliance, the clinic shall submit justification and a completion date to the division.

(d) If the division determines all or part of the submitted plan is unacceptable, the clinic shall submit a revised plan of correction within five (5) days of receipt of the notice identifying the unacceptable plan or part thereof.

(e) Failure to submit any required plan of correction or failure to implement a corrective action by the completion date may result in an enforcement action under 410 IAC 26-2-8.

(Indiana State Department of Health; 410 IAC 26-3-4; filed May 11, 2006, 9:36 a.m.: 29 IR 3359; readopted filed Jul 12, 2012, 12:08 p.m.: 20120808-IR-410120196RFA; readopted filed Sep 26, 2018, 2:48 p.m.: 20181024-IR-410180328RFA; filed Sep 6, 2019, 3:25 p.m.: 20191002-IR-410190164FRA)

ARTICLE 26.5. ABORTION CLINICS PERFORMING DRUG INDUCED ABORTIONS

Rule 3. License Requirements for Abortion Clinics That Perform Drug Induced Abortions

410 IAC 26.5-3-8

SECTION 1. 410 IAC 26.5-3-8 IS AMENDED TO READ AS FOLLOWS:

410 IAC 26.5-3-8 Enforcement actions

Authority: IC 16-21-1-7; IC 16-21-2-2.5

Affected: IC 16-21-2; IC 16-21-3; IC 27-13-1

Sec. 8. (a) The commissioner may take any of the following actions on any of the grounds listed in subsection (b):

(1) Issue a letter of correction.

- (2) Issue a probationary license.
- (3) Conduct a resurvey.
- (4) Deny the renewal of a license.
- (5) Revoke a license.
- (6) Impose a civil penalty in an amount not to exceed ten thousand dollars (\$10,000).
- (b) The commissioner may take action under subsection (a) on any of the following grounds:

- (1) Violation of any provision of ~~this article~~ **state law**.
- (2) Permitting, aiding, or abetting the commission of any illegal act in an abortion clinic.
- (3) Knowingly collecting or attempting to collect from:
 - (A) a subscriber (as defined in IC 27-13-1-32); or
 - (B) an enrollee (as defined in IC 27-13-1-12);

of a health maintenance organization (as defined in IC 27-13-1-19) any amounts that are owed by the health maintenance organization.

- (4) Conduct or practice found by the department to be detrimental to the welfare of the patients of an abortion clinic.

(Indiana State Department of Health; 410 IAC 26.5-3-8; filed Sep 6, 2019, 3:31 p.m.: 20191002-IR-410190163FRA)

Rule 4. Surveys

410 IAC 26.5-4-2

SECTION 1. 410 IAC 26.5-4-2 IS AMENDED TO READ AS FOLLOWS:

410 IAC 26.5-4-2 Licensing surveys

Authority: IC 16-21-1-7; IC 16-21-2-2.5

Affected: IC 16-21-1; IC 16-21-2

Sec. 2. (a) The department will conduct a licensing survey of each abortion clinic at least one (1) time per calendar year. The licensing survey is conducted to ensure that the abortion clinic is operating in compliance with ~~this article~~ **state law**.

(b) Licensing surveys will be conducted during normal business hours of the abortion clinic unless the abortion clinic requests that the survey be conducted during nonbusiness hours.

(c) The division will notify the clinic of the results of the licensing survey in writing.

(Indiana State Department of Health; 410 IAC 26.5-4-2; filed Sep 6, 2019, 3:31 p.m.: 20191002-IR-410190163FRA)

410 IAC 26.5-4-4

SECTION 1. 410 IAC 26.5-4-4 IS AMENDED TO READ AS FOLLOWS:

410 IAC 26.5-4-4 Plan of correction

Authority: IC 16-21-1-7; IC 16-21-2-2.5

Affected: IC 16-21-1; IC 16-21-2

Sec. 4. (a) The abortion clinic must file an acceptable plan of correction with the division within ten (10) days of receipt of a survey report from the division that documents noncompliance with ~~state rules~~ **state law**.

(b) Unless the commissioner determines that there is a need for immediate release, the abortion clinic will have ten (10) days after notification of a noncompliance to submit to the division an acceptable plan of correction before the survey report is made available to the public.

(c) The plan of correction shall contain, for each deficient practice cited on the survey report, at least the following:

- (1) How the deficient practice will be corrected.
- (2) How the deficient practice will be prevented from reoccurrence.
- (3) Who will be responsible for correction and prevention.
- (4) The month, day, and year that the corrective action will be completed, not to exceed thirty (30) days from receipt of the notice of noncompliance.
- (5) If the nature of the corrective action requires more than thirty (30) days from the date of receipt of the notice of noncompliance, the clinic shall submit justification and a completion date to the division.

(d) If the division determines all or part of the submitted plan is unacceptable, the clinic shall submit a revised plan of correction within five (5) days of receipt of the notice identifying the unacceptable plan or part thereof.

(e) Failure to submit any required plan of correction or failure to implement a corrective action by the completion date may result in an enforcement action under 410 IAC 26.5-3-8. (*Indiana State Department of Health; 410 IAC 26.5-4-4; filed Sep 6, 2019, 3:31 p.m.: 20191002-IR-410190163FRA*)